THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.9589 OF 2006

DATED: 7TH JUNE, 2006

Between:

1. M/s. Swarna Bar and Restaurant, rep. by
   Its Proprietor, Jogi Ramesh and another. … Petitioners

And

1. Govt. of A.P., rep. by its Principal Secretary,
   Revenue (Excise-III) Department, Secretariat,
   Hyderabad, and 4 others. .. Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.9589 OF 2006

O R D E R :

This writ petition is filed questioning the order passed by the 1st respondent dated 27-4-2006.

The writ petitioners claim to be the licensees for running Bar & Restaurants at Krishna Lanka, Vijayawada for the Excise Year 2005-06. The 5th respondent was also a licensee for running a Bar & Restaurant. It is not in dispute that the 5th respondent was granted a licence in Form-2B under the provisions of A.P. Excise (Grant of Licence of Selling by Bar and Conditions of Licence) Rules, 2005 (for short, 'the Rules') for running a Bar & Restaurant under the name and style of M/s. Kanaka Durga Restaurant & Bar at Door No.42-10-13, Luna Centre, Vijayawada. However, on a request made by the 5th respondent seeking permission for shifting of the licensed premises to Door No. 41-29-52, Chalasani Nagar, Krishna Lanka, Vijayawada, the 2nd respondent – Commissioner of Prohibition & Excise vide proceedings dated 18-2-2006 accorded permission to the 5th respondent. Aggrieved by the same, the writ petitioners filed a Revision Petition before the 1st respondent under Section 64 of the A.P. Excise Act. Having entertained the same, the 1st respondent passed an order dated 6-3-2006 thereby suspending the order of the 2nd respondent dated 18-2-2006. Assailing the correctness of the said order, the 5th respondent herein filed W.P.No.4895 of 2006. The writ

petitioners herein were impleaded as respondents 4 and 5 in the said writ petition. This Court, having heard both the parties, disposed of the said writ petition by order dated 29-3-2006 directing the 1st respondent to dispose of the Revision Petition pending on its file as expeditiously as possible preferably within a period of one week from the date of receipt of the said order. Pursuant thereto, the first respondent has passed final order in the Revision Petition on 27-4-2006 as under :

> *"After careful consideration of the request of M/s. Kanaka Durga Bar & Restaurant, Vijayawada in the representation 2nd cited and in terms of orders of Hon'ble High Court in the reference 3rd cited, Government hereby decide to revoke the suspension orders issued in the Memo dated 6-3-2006."*

The said order dated 27-4-2006 is under challenge in this writ petition contending inter alia that the impugned order which lacks reasons is arbitrary and illegal and liable to be set aside.

Though no counter-affidavit is filed on behalf of the respondents 1 to 4, the 5th respondent filed a counter-affidavit stating that in pursuance of the order passed by the 2nd respondent, dated 18-2-2006 he had already commenced the business in the new premises and by virtue of the orders of suspension passed by the 1st respondent on 6-3-2006 he was constrained to stop the business. It is also stated that after the Revision Petition was finally disposed of by the 1st respondent under the impugned order, he has recommenced the business.

The learned Counsel for the 5th respondent submits that the Revision Petition filed before the 1st respondent by the writ petitioners was frivolous and only on account of trade rivalry and as a matter of fact the permission accorded by the 2nd respondent for shifting of business premises was in accordance with law and unassailable. He

also submits that since the licence period itself is going to expire by the end of this month, it would not be appropriate to interdict the business of the 5th respondent.

A bare perusal of the impugned order shows that the same was passed without notice to either party. It is also clear that the same did not contain any reasons for permitting shifting of the business premises of the 5th respondent. As a matter of fact, except stating that it was decided to revoke the order of suspension issued under memo dated 6-3-2006, there was absolutely no reference to the facts of the case much less any reasons in support of its conclusion.

The law is well settled that absence of reasons is one of the grounds for judicial review since the failure of the quasi-judicial authority to assign reasons would result in violation of the principles of natural justice.

The 1st respondent having entertained the Revision Petition under Section 64 of the A.P. Excise Act, 1968 is expected to decide the same after recording its satisfaction as to the correctness, legality or propriety of the order under Revision. Since no such procedure was followed, the impugned order is vitiated by non-application of mind and therefore liable to be set aside on that ground alone.

Accordingly, the impugned order is set aside and the Writ Petition is disposed of with a direction to the 1st respondent to dispose of the Revision Petition against the order of the 2nd respondent dated 18-2-2006 and to pass appropriate orders afresh in accordance with law in the light of the observations made above. Such exercise shall be completed as expeditiously as possible preferably within a period of one week from the date of receipt of this order. No costs.

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G. ROHINI, J.

Dt. 7-6-2006
gbs